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1 You can early vote in person at a polling location?

2 A. Uh-huh, yes.

3 Q. Right?

4 A. Yes.

5 Q. You can vote on election day at a polling  
6 location?

7 A. Yes.

8 Q. You can send in an application for a mail-in  
9 ballot if you're eligible to get a mail-in ballot and  
10 mail that ballot back in?

11 A. Yes.

12 Q. And if there's any problem with somebody who  
13 requested an application or a mail-in ballot, and at the  
14 point that they get that, your department actually  
15 stamps in these location books, these polling location  
16 books, hey, Mr. Smith, we already sent him an  
17 application for mail-in ballot, correct?

18 A. Yes.

19 Q. So he doesn't get to show up on election day  
20 and vote again, does he? Not supposed to?

21 A. Not if the proper procedure was followed, yes.

22 Q. Okay. And let's assume for just our purposes  
23 Mr. Smith, you know, requested a mail-in ballot for this  
24 election, he didn't vote or send it back in, or he did  
25 and, you know, he's over 65, 65 or older, because he

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1 wouldn't have gotten one, or he's disabled, correct?

2 A. Yes.

3 Q. Those are the two big reasons?

4 A. Two most frequently used.

5 Q. He forgets and he takes his grandson and goes  
6 down to the elementary school and votes, or he tries to  
7 vote, and the book says he's stamped, that he already  
8 got one. And he says, yeah, but you know, man, the dog  
9 ate that or my grandson tore it up and somebody made it  
10 into a paper airplane, and it's not around anymore, that  
11 mail-in ballot. The fourth way is he can cast a  
12 provisional vote; is that correct?

13 A. That's correct.

14 Q. Okay. And then that gets sorted out later if  
15 there's a reason one way or another?

16 A. Correct.

17 Q. Okay. Do you have any of the provisional votes  
18 over here?

19 A. As I was looking through yesterday, I didn't  
20 see any provisional votes in there, and I don't think  
21 they were listed on the subpoena, were they, because  
22 I'm -- I might be mistaken. I don't have my subpoena  
23 with me, but --

24 Q. No. I'm sure the subpoena was deficient since  
25 I drafted it.

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(Cell phone ringing)

A. I don't, but I can get those, if you need those.

Q. Do you need to answer the phone?

A. No, it's not me.

Q. Oh, okay. Sorry. Anyway, long story short, you have some other administrators, too, that are custodian of these records; is that right?

A. Most administrators in the State of Texas are custodians. Some do not contract with the primary parties -- political parties and then the parties are custodians, but almost everywhere you'll see the administrator is the custodian of the record.

Q. Let's say, you know, you win the lottery, right, and you tell those five guys that you've been dealing with for 23 years, hey, I've enjoyed the party but I'm leaving, and we don't see you again, could you tell Judge Davis and Mr. Wood and Mr. Rich who else in your department could come over here -- that's qualified to come over here, has your trust, your respect, and since Mr. Stool had mentioned you had a vacation letter --

A. Yeah.

Q. -- what other names could we use to come over here and walk us through some of these documents, if

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1 necessary?

2 A. The assistant administrator for Dallas County,  
3 Toni Pippins-Poole, my assistant, would be more than  
4 capable. She's worked under my supervision for over 20  
5 years.

6 Q. Okay. Would you be -- I think we tried to  
7 subpoena when -- last week when we were getting to the  
8 point where we were tying all this up, I think we  
9 subpoenaed a Ms. Deatrice Kirk also; is that correct?

10 A. Yes, sir, you did, and I would say probably  
11 she's farther down on the management hierarchy. I would  
12 say Toni Pippins-Poole, who is the assistant elections  
13 administrator, and then next I would say Danny Clayton,  
14 who is the voter registration supervisor. Those are the  
15 three highest positions within the elections department.  
16 Deatrice is very capable. I just think she wouldn't be  
17 the one that go -- bumped down to.

18 Q. Perfectly understandable.

19 A. Yes, sir.

20 Q. Is Ms. Poole going to be available for the next  
21 ten business days?

22 A. I believe so. I have not checked with her. I  
23 know I'm off next week, and Daniel Clayton, myself, and  
24 Toni were at this seminar last week, so we were all  
25 unavailable. You didn't have any one of us to reach

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1 last week. But they should -- I know Mr. Clayton will  
2 be gone next week, but Ms. Poole, I believe, is in town  
3 and available for this, and I can certainly verify that,  
4 if you wish, and get back to you.

5 Q. I would, and my --

6 A. Yes, sir.

7 Q. -- question is, would you have any objection --  
8 you know, in this last case I did do, we were able to  
9 swear in, you know, three or so people from an elections  
10 department just so we had somebody available. Would  
11 you -- do you want us to, you know, have  
12 Ms. Pippins-Poole formally subpoenaed, or would you be  
13 able to agree here on the stand in this case that she'd  
14 be available if you're not available?

15 A. I would agree right now. I have full  
16 confidence in her abilities, as long as she's available.

17 Q. Is Mr. Stool grimacing behind me? Does he have  
18 any qualms or concerns about that?

19 A. I don't have my glasses on right now. I see  
20 just a fuzzy picture of him right now, but he doesn't  
21 look like he's grimacing.

22 Q. Without attempting to alienate Mr. Poole (sic),  
23 I can do it naturally without -- is that a problem, Ben?

24 MR. STOOL: No, I don't see any problem.

25 MR. WYDE: Thank you.

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1           Q. (BY MR. WYDE) Okay. So your vacation letter,  
2 too, could you tell the Court your schedule just so  
3 we're aware of that?

4           A. Yes, I can, and I leave this Saturday, and let  
5 me get you the exact dates so that it's on the record.  
6 And if I miss this vacation, I'll be in divorce court  
7 probably the following week, so I --

8           Q. We won't do that.

9           A. Okay. I leave on the 10th which is this  
10 Saturday, and I come back on the 19th and I'll be out of  
11 state that full period of time. And then once I'm back  
12 on the 19th, I'm in for at least a couple of weeks in my  
13 office. I'm available from that point on. But the 10th  
14 through the 19th, and that has been -- actually, I do  
15 need to make a correction. I think we submitted even  
16 two weeks on my letter to the Court Mr. Stool filed for  
17 me. I'll be in before that ends. I'll be in on the  
18 19th, not the 24th, as it was originally submitted.

19          Q. Right. Okay.

20                   MR. WYDE: Any questions the Court has with  
21 regard to that subject about an administrator being  
22 available at the Court's discretion or --

23                   THE COURT: No.

24                   MR. WYDE: Okay.

25          Q. (BY MR. WYDE) The documents that are in front

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1 of you now --

2 MR. WYDE: Or any questions about the  
3 methods in voting, Your Honor?

4 THE COURT: No.

5 MR. WYDE: Yes, sir.

6 Q. (BY MR. WYDE) The documents that are before  
7 you right now, if -- I was asking you questions, but  
8 would you walk us through, or did you look at those?

9 A. No, I haven't looked yet.

10 Q. Okay.

11 MR. WOOD: Your Honor, since I don't have a  
12 copy, and I don't necessarily need one, when he starts  
13 testifying about any particular document, I would like  
14 to be able to see so I can --

15 THE COURT: All right.

16 MR. WYDE: In fact, Mr. Wood, what I have  
17 here is an extra copy. And for the Court -- may I?

18 THE COURT: You may.

19 MR. WYDE: This is an extra copy of the  
20 First Amended Petition.

21 MR. WOOD: I have those.

22 MR. WYDE: Okay. What he's looking at  
23 right now, Mr. Wood, is under 4. -- he's just looking at  
24 the mail-in ballots under the 4.9.

25 MR. WOOD: He's looking at a different

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1 document than that.

2 MR. WYDE: Yes, sir, he's just looking at  
3 the application for mail-in ballot and the carrier  
4 envelope.

5 MR. WOOD: Okay.

6 A. You ready for me to respond?

7 Q. (BY MR. WYDE) Yes, sir.

8 A. This is the front and back copies of what we  
9 call the carrier envelope when the ballot is returned  
10 once the voter votes by mail and also the front and back  
11 copy of the application for absentee ballot by mail for  
12 a number of voters.

13 Q. Okay. Do they look to be true and accurate  
14 copies of Dallas County records, things that you're the  
15 custodian of? Do you see how they've been altered or  
16 changed in any way?

17 A. I see no alterations, no changes. They look to  
18 be copies that we have made from the official documents.

19 Q. Okay.

20 (Contestant's Exhibit No. 3 marked.)

21 MR. WYDE: Would you like to take a few  
22 minutes?

23 MR. WOOD: Sure. As an inquiry to the  
24 witness, these are the copies of the carrier envelopes,  
25 that's what --

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1 THE WITNESS: Yes, sir.

2 MR. WOOD: Okay. I just want to be sure I  
3 understand what Exhibit 3 is. I have no objection.

4 MR. WYDE: Yes, sir.

5 THE COURT: Admitted.

6 MR. WYDE: Thank you, sir. Permission to  
7 publish?

8 THE COURT: Granted.

9 MR. WYDE: Okay.

10 (Contestant's Exhibit No. 4 marked.)

11 Q. (BY MR. WYDE) I just asked you to look at  
12 what's been marked as Contestant's Exhibit No. 4 and  
13 asked if those are true and accurate copies of carrier  
14 envelopes, front and back, applications for mail-in  
15 ballot, front and back, for the election at this -- that  
16 is the subject of this contest?

17 A. That's what they appear to be, yes, to me.

18 Q. Any alterations that you see, deletions,  
19 objections, things that would cause you to think that  
20 somehow, some way, those copies aren't exactly what's in  
21 here --

22 A. No.

23 Q. -- in 1 -- in Contestant's Exhibit 1?

24 A. It appears to be the copies of what you'll find  
25 in there.

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1 (Contestant's Exhibit Nos. 5A-5B marked.)

2 Q. Okay. And would you take just a moment and  
3 look through this next stack marked No. 5, and I think  
4 it's marked 5A and 5B because there's two groups.

5 MR. WYDE: And I'm going to tender 4 to  
6 Mr. Wood and see if he has any objections, Your Honor.

7 MR. WOOD: No objection, Your Honor.

8 THE COURT: Admitted.

9 Q. (BY MR. WYDE) Did you have an opportunity to  
10 look at 5A and 5B?

11 A. Yes, sir.

12 Q. Do -- are those the same thing, front cover --  
13 front and back of mail-in -- applications for mail-in  
14 ballot and common contract carrier envelopes?

15 A. They're mail-in ballots and carrier envelopes,  
16 yes, sir -- ballot carrier envelopes, yes.

17 Q. Well, that's actually the application for  
18 mail-in ballot because we don't have the ballots, do we?

19 A. No, we do not, correct.

20 Q. I mean, you have the ballots, but I don't.

21 A. That's correct.

22 Q. Yeah. So --

23 A. Yes, that's correct.

24 Q. Thank you. I'm not right often, but when I am,  
25 I'm going to have to press that bell, okay?

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1 A. Okay.

2 MR. WYDE: Any objection, Mr. Wood?

3 MR. WOOD: No objection, Your Honor.

4 MR. WYDE: Okay.

5 THE COURT: 5A and 5B are admitted.

6 MR. WYDE: Yes, sir.

7 Q. (BY MR. WYDE) Now, before we get into this big  
8 stack that we just talked about a minute ago, I believe  
9 what's going to be marked 3 --

10 MR. WYDE: Judge, for the record, these  
11 documents marked Contestant's 3 are going to pertain to  
12 4.9 of the Contestant's Amended Petition, Mr. Wood and  
13 Mr. Rich, Your Honor; the documents marked Contestant's  
14 4 are going to refer to 4.6 of our Amended Petition, and  
15 the documents marked 5A and 5B will comport with 4.5 of  
16 the First Amended Petition. I hope that makes sense.

17 Q. (BY MR. WYDE) May I show you what's been  
18 marked or going to be marked 6A and 6B and ask if you  
19 can identify those particular documents?

20 A. Yes. 6A will be the unofficial cumulative  
21 totals which are the totals for this particular race,  
22 and the B is the unofficial final canvassed results.  
23 They say unofficial because until the party certifies  
24 those results, the reports always reflect the word  
25 "unofficial," but this is a cumulative report and a

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1       precinct by precinct report, if you will, of the results  
2       of this particular race.

3           Q.   For Precinct 5, Place 1 election, the subject  
4       of this contest?

5           A.   That is correct.

6           Q.   Okay. I didn't understand why it said  
7       unofficial. I was thinking that was just kind of a  
8       preliminary deal, but it's because it's not  
9       necessarily -- comes from your department, it comes from  
10      the parties; is that right?

11          A.   Well, what happens -- yes, it's a kind of  
12      ministerial duty, but the parties have to certify the  
13      results. We present them to them, and their final  
14      official blessing of it will be the certification  
15      process.

16          Q.   Okay. And so what's going to be 6A and 6B up  
17      there, does that -- is that the end result in this  
18      election, to your knowledge?

19          A.   Yes, it appears to be the end result for this  
20      race, JP5, Place 1.

21          Q.   For Judge Davis, Mr. Rich, and Mr. Wood, was  
22      there any drastic, you know, changes in the voting  
23      total? There was no recount or anything like that,  
24      correct?

25          A.   There was no recount. I think initially there

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1 was like a 155-vote spread, and I think it's now at 149  
2 after the canvass of the results, and that's due to the  
3 reconciliation and late military overseas ballots and  
4 provisional ballots that sometimes are counted in after  
5 the election, as required.

6 Q. Okay. What document would -- that you have  
7 would reflect that so that we have, you know, conclusive  
8 evidence, the magic number in the case is 149?

9 A. We have that on our website at  
10 dalcoelections.org. The parties have the official  
11 document that they canvassed and certified that we  
12 provided them, but at last check, I saw when I pulled it  
13 up yesterday, it was 149 votes difference from our  
14 record.

15 Q. Okay.

16 MR. WYDE: And Judge, I hope this is an  
17 appropriate time, but I need to admit a mistake in my  
18 petition. I made a numerical error, if you will, on  
19 page 2, and I wanted to apprise that for Mr. Wood,  
20 Mr. Rich, and the Court. I misadded, and I have a  
21 corrected copy and I'd just like to put that up here on  
22 this screen and let you know that I misadded. I believe  
23 that total on the first line should be 2859, and then  
24 the total on the second line for Mr. Medrano, 3013, and  
25 then lastly, that should put both columns at 5872, so --

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1 obviously, that's a filed document. We don't want that  
2 to be -- we want to bring it to everybody's attention  
3 that we make a mistake in one of those.

4 Q. (BY MR. WYDE) Now, the results of this  
5 election --

6 MR. WYDE: Could we mark this 6A and 6B?  
7 (Contestant's Exhibit Nos. 6A-6B marked.)

8 MR. WYDE: No objection?

9 MR. WOOD: No objection.

10 MR. WYDE: Okay. Ask 6A and 6B be  
11 admitted.

12 THE COURT: Admitted.

13 MR. WYDE: Okay. Thank you.

14 Q. (BY MR. WYDE) Now, if you subtract this  
15 3014 -- excuse me, if you subtract the 2860 from 3014,  
16 you're going to come up with 156; is that correct?

17 A. That's right.

18 Q. Okay. I want you to -- this is a big point  
19 because every vote does make a difference.

20 A. Right.

21 Q. And so -- but you're saying now, because of  
22 other votes that came in, the true and accurate final  
23 drop-dead margin of difference was 149 -- 149 votes,  
24 more votes in favor of Mr. Medrano than Judge Sepulveda?

25 A. That's what I'm saying, yes.

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1           Q. Okay. No doubt about that?

2           A. Well, I was in my office yesterday. I haven't  
3 looked at the canvassed report from the parties. I know  
4 we provided the parties. I don't know what they  
5 canvassed. And I can only speak from my office, and our  
6 totals that we presented them for canvass, and I know  
7 that as I looked back over it again, because it's been a  
8 while since this election, yesterday was a 149 vote  
9 difference. I'm almost 100 percent sure that's what was  
10 canvassed, but I can't speak for the parties, the spread  
11 being 149, not 156.

12           Q. Okay. In your expertise, your 23 years of  
13 doing this, would you look at Judge Davis and say,  
14 Judge, I'd be looking at the 149 number?

15           THE WITNESS: I can tell you I would say  
16 149, Judge, from what I saw yesterday from our website.

17           Q. (BY MR. WYDE) Yeah.

18           A. And what I know, we gave the parties. So 149  
19 is the number. This report here that I'm looking at is  
20 from -- it looks like from SOE which is our election  
21 night what we post up initially before, but you have  
22 five days after the election to receive overseas and  
23 military ballots, you have reconciliation of the totals,  
24 and provisional votes. Sometimes you'll have  
25 provisional votes that will add or -- add the vote

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1           because they won't -- if they're not counted, but they  
2           are counted if it increases, based on that.

3           Q.   Okay.  And the -- if there's any question about  
4           that and you're not available, would Ms. Pippins-Poole  
5           be qualified, in your opinion, to discuss that or go  
6           into those aspects?

7           A.   Absolutely.

8           Q.   Okay.  Now, let's discuss, if we can, these  
9           signatures under 4.9 of the petition and these -- excuse  
10          me, these applications for the MIBs and the common  
11          contract carrier envelope.

12                   MR. WYDE:  Judge, may I have just a moment?

13                   THE COURT:  You may.

14                   MR. WYDE:  I'm trying to adjust this thing.

15          Q.   (BY MR. WYDE)  Okay.  Let's just look at this  
16          one marked with -- that has the exhibit sticker on it,  
17          and let's run through the markings on this particular  
18          envelope just so that everybody's familiar with what we  
19          see maybe in the future, okay?

20          A.   Okay.

21          Q.   I'll show you what we're going to go ahead and  
22          offer as No. 7 for Contestant and ask if that's -- if  
23          you can identify that?

24          A.   Yeah, this is our official carrier envelope for  
25          the absentee mail-in ballots when they're returned from

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1 the voter.

2 Q. Okay. And eventually -- well, any -- ever --  
3 are there any markings on this that denote that it comes  
4 from Dallas County?

5 A. Well, on the return side, it's addressed to me.

6 Q. Right.

7 A. And so on the back side, it doesn't list Dallas  
8 County, in particular, it's only identified by the  
9 address that's mailed back into me.

10 Q. Okay. And let me ask this one question here.  
11 Do you -- are you familiar with this number down here in  
12 this lower right-hand on the flap side?

13 A. In particular, I can't tell you for sure. It  
14 says 12/07 which I'm wondering if that's when it was  
15 printed or when it was authorized for use by the State.  
16 But honestly, I don't really know for sure.

17 Q. Okay.

18 (Contestant's Exhibit No. 7 marked.)

19 MR. WYDE: Mr. Wood, any objection?

20 MR. WOOD: No objection.

21 MR. WYDE: Thank you.

22 THE COURT: Admitted.

23 MR. WYDE: Permission to publish?

24 THE COURT: Granted.

25 Q. (BY MR. WYDE) Okay. Let's -- if we can, I'm

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1 going to try to compare these side by side just so that  
2 we can look and see what happens once this thing comes  
3 back to you or when it goes out, okay?

4 A. Yes, sir.

5 Q. Let's look at this top right-hand corner. Can  
6 you tell us what the difference is -- what is this  
7 marking up here on No. 3 in the top left-hand corner,  
8 for the record?

9 A. I can tell you it's a little fuzzy to me. If I  
10 could -- I don't know, do you have one of the originals  
11 I could read from, because it looks like it's the  
12 address label with the voter's information, but I  
13 can't -- honestly, I can't --

14 Q. Okay. Would you --

15 A. My eyes are not what they used to be. I'm --

16 Q. Right.

17 A. When I turned 50 -- I'm 53 now. I can't tell  
18 you for sure. I'd have -- do you have one I can look at  
19 close --

20 Q. Yes.

21 A. -- and then I could tell you. But it looks  
22 like our address label from here, but I --

23 Q. I'm just going to show you one of them which  
24 we're not going to necessarily identify.

25 A. Right. That is our address label.

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1 Q. Okay. When you say your address label or our  
2 address label --

3 A. Yes.

4 Q. -- what does that mean?

5 A. That means when we receive an application for a  
6 ballot by mail, we enter it into the system, we first  
7 verify they're a registered voter and qualified. Once  
8 they're determined to be a qualified registered voter  
9 that is request -- that -- who are requesting mail  
10 ballot, we will generate labels, and those labels go  
11 several different places. They go in what we call the  
12 jacket envelope, they go into the carrier envelope, so  
13 that we can identify the voter that we're sending this  
14 ballot to, and that's what you have here. You have the  
15 actual precinct number, you have the name of the voter,  
16 their address, ZIP code.

17 Q. Okay. So this is a marking that -- you put  
18 this on the envelope before it's mailed out?

19 A. We do.

20 Q. Before this envelope is mailed to the person  
21 requesting the application?

22 A. That's correct.

23 Q. I mean, the person making the application  
24 requesting the ballot?

25 A. It's in that -- it's part of our ballot

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1 materials.

2 Q. Okay. And then -- okay. So here's the  
3 precinct, is that correct, 4408?

4 A. Yes.

5 Q. And this is the individual's name, third line  
6 down?

7 A. Yes.

8 Q. And this appears to be an address?

9 A. Yes.

10 Q. ZIP code -- Dallas, Texas, ZIP code?

11 A. Yes.

12 Q. Can you tell us what this bar card and this  
13 marking is?

14 A. Bar code identifies -- every voter is  
15 identified by a unique number, and that is the bar code  
16 for that unique number that identifies that voter.

17 Q. Okay. And what was -- is that what's often  
18 referred to as the voter VUID?

19 A. VUID number, yes.

20 Q. VUID?

21 A. Yes.

22 Q. VUID?

23 A. Yes.

24 Q. Which is different than a voter registration  
25 number?

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1           A. We have two numbers, VUID and a certificate  
2 number. The official recognized number now is what we  
3 call the VUID number which is the identification that it  
4 carries that voter throughout the state. It's on the  
5 state database.

6           Q. Okay. And the registration number is what's on  
7 your voter registration card that you get sent back, and  
8 that's kind of what's used at the polling location?

9           A. We have both numbers available for the voters,  
10 and the official recognized is VUID number. That is the  
11 official number identifying the voter.

12          Q. Okay. And can you tell me about this number  
13 that follows the precinct number, these markings?

14          A. We have the precinct number and we have also  
15 ballot style numbers that identify the particular ballot  
16 style for that voter.

17          Q. Okay. And in this case, the one up here are  
18 the -- that would probably be the same on all of these  
19 for this particular race; is that right?

20          A. It -- well, it should be, but that ballot style  
21 could change because it may be in a different  
22 congressional district. It may be in this JP district,  
23 but there's still a congress -- a different -- a  
24 congressional or senatorial --

25          Q. Okay.

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1           A. -- State rep district, so it's not always a  
2 case that is the same.

3           Q. All right. And you send that so that only  
4 those people that are supposed to be eligible to vote  
5 for that particular race, whether it's congressional or  
6 local, they're getting the ballot that has the people  
7 running for those offices that they're eligible to vote  
8 for?

9           A. That's exactly right.

10          Q. Okay. And there's no other markings up there  
11 in that left-hand corner that we've left out, is there?

12          A. No. I think you've identified all.

13          Q. Okay. Let's --

14          A. Except the date of election. The date of  
15 elections is at the very -- right underneath the bar  
16 code.

17          Q. That's the number to the far -- the six  
18 numbers?

19          A. Right.

20          Q. Or the eight numbers to the far left under the  
21 bar code?

22          A. That's correct.

23          Q. Okay. And then the numbers -- the other -- two  
24 other sets of numbers to the right of that are the VUID  
25 numbers?

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1 A. VUID numbers, yes, sir.

2 Q. Okay. The end -- what is the stamp, March 1st,  
3 2010?

4 A. That's the date that we processed it.

5 Q. And is that the date it went out or the date it  
6 came in?

7 A. It should be the date it came in to us, yes.

8 Q. Okay. There's some markings over here. Can  
9 you tell us what those are? It looks kind of -- is that  
10 a file stamp or --

11 A. That's a file stamp when it comes -- and we  
12 stamp each one of those with a file stamp.

13 Q. So when it comes back in?

14 A. Comes back in, yes.

15 Q. Okay. And so the Judge, if he had a question  
16 about that, or Mr. Wood, they could dig through these  
17 boxes and find one of those and they'd see probably some  
18 light purple ink, file stamp?

19 A. That's file stamp, yes.

20 Q. Okay. This marking here which is on the  
21 original official election mail authorized by U.S.  
22 Postal Service, the purpose for that is for it to  
23 actually not be held up due to postage; is that correct?

24 A. That is correct. That's a federal approved  
25 stamp that alerts the post office to treat this as